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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/705,812	11/10/2003	Satoshi Mizutani	20050/0200485-US0	5410
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DARBY & DARBY P.C. P. O. BOX 5257 NEW YORK, NY 10150-5257			EXAMINER CRAIG, PAULA L	
			ART UNIT	PAPER NUMBER
			3761	

DATE MAILED: 03/28/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/705,812

Applicant(s)

MIZUTANI ET AL.

Examiner

Paula L. Craig

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-16 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 10 November 2003 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4/23/04, 2/28/05
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: ____

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character "61" has been used to designate both a surface side sheet and a back side sheet (see specification, page 18, line 16, and page 19, line 12). The drawings are also objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the interlabial pad being orthogonal to the wrapping container must be shown or the feature canceled from the claims. See Claim 15. No new matter should be entered. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Specification

2. The abstract of the disclosure is objected to because it contains more than a single paragraph. The abstract also contains more than 150 words. Correction is required. See MPEP § 608.01(b).
3. On page 31, line 9 of the specification, "boding" should be "bonding". On page 43, line 15 of the specification, "ordinal" should be "ordinary".

Claim Objections

4. Claim 5 is objected to because of the following informalities: In Claim 5, line 2, "length" should be "width". Appropriate correction is required.

Claim Rejections - 35 USC § 102

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-5 and 12-13 are rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent Application Publication No. 2002/0143309 to Glasgow et al.
7. For Claim 1, Glasgow teaches an interlabial pad having a size capable of being easily inserted between female labia (Figs. 1-16 and paragraph 34). The pad has a pair of absorbing sheet bodies for absorbing body fluid (first and second absorbent members

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20 and 30, Fig. 3 and paragraph 26). Each of the absorbing sheet bodies is unbonded at right and left side edges in respect of a longitudinal direction while bonded at both ends in the longitudinal direction (Figs. 1-16 and paragraphs 26-31).

8. For Claim 2, Glasgow teaches the pair of absorbing sheet bodies including a main sheet body including a first permeable surface side sheet facing a body side (topsheet 21, Fig. 3 and paragraphs 30 and 32). Glasgow teaches a first permeable or impermeable back side sheet facing an opposite side to the body side (back sheet 22, Fig. 3 and paragraph 30). A first absorber absorbs body fluid, with the first permeable side sheet and the first back side sheet bonded to each other to enclose the first absorber (absorbent means 23, Fig. 3 and paragraphs 30, 33, and 34). Glasgow teaches a sub-sheet body having a second permeable surface side sheet facing a body side, and a second permeable or impermeable back side sheet facing a garment side (topsheet 31 and barrier sheet 32, Figs. 3 and 6 and paragraphs 30 and 42). A second absorber absorbs body fluid, with the second permeable surface side sheet and the second back side sheet bonded each other to enclose the second absorber (absorbent element 33, Figs. 3 and 6, paragraphs 30 and 42).

9. For Claim 3, Glasgow teaches the unbonded areas of the main sheet body and the sub-sheet body in the right and left side edges are line-symmetrical with respect to a center-line in the longitudinal direction of the interlabial pad (Figs. 1-16).

10. For Claim 4, Glasgow teaches the unbonded areas in each of the right and left side edges in respect of the longitudinal direction of the interlabial pad, are formed in a

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range of 2/5 to 4/5 of a whole portion of each side edge (Figs. 1-16 and paragraphs 28 and 51).

11. For Claim 5, Glasgow teaches the width of the main sheet body in the lateral direction is equal to that of the sub-sheet body in the lateral direction or shorter than that of the sub-sheet body in the lateral direction (Figs. 1-16 and paragraph 31).

12. For Claim 12, Glasgow teaches the interlabial pad being a pad for an incontinence of urine (paragraph 24).

13. For Claim 13, Glasgow teaches the interlabial pad being a pad for absorbing vaginal discharge (paragraph 24).

Claim Rejections - 35 USC § 103

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

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16. Claims 6-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Glasgow in view of U.S. Patent No. 5,007,906 to Osborn, III et al.

17. For Claim 6, Glasgow teaches the main sheet body being conformable and relatively thin and flexible (paragraphs 34 and 36). Glasgow does not expressly teach the stiffness of the main sheet body in the lateral direction being smaller than that of the sub-sheet body. However, it is well known in the art of absorbent articles for the part of a pad closer to the body to be more flexible. Osborn confirms this and teaches an interlabial pad (Figs. 1-5, col. 2, lines 13-15 and col. 11, lines 15-20). The interlabial pad has a pair of absorbing sheet bodies for absorbing body fluid (Figs. 1-5 and col. 7, line 37 to col. 8, line 59). Osborn teaches the stiffness of the main sheet body being smaller than that of the sub-sheet body (col. 5, line 67 to col. 6, line 11). Osborn teaches that this allows for the main sheet body to conform to the body of the wearer (col. 6, lines 8-11). It would have been obvious to one of ordinary skill in the art at the time of the invention by the Applicant to modify the pad of Glasgow to include the stiffness of the main sheet body being smaller than that of the sub-sheet body, as taught by Osborn, to allow for the main sheet body to conform to the body of the wearer.

18. For Claim 7, Glasgow does not expressly teach the stiffness of the main sheet body in the lateral direction being not more than 1.5 mN. Stiffness is a result effective variable, since a more flexible sheet body will conform better to the contours of the wearer. The discovery of an optimum value of a result effective variable is ordinarily within the ordinary skill in the art. See *In re Boesch and Slaney*, 205 USPQ 215 (CCPA 1980).

19. Claims 8-10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Glasgow in view of PCT Publication No. WO 99/01093 to Wierlacher et al.

20. For Claim 8, Glasgow shows a line in the center of the lateral directions (Figs. 11 and 13). Glasgow does not expressly teach the first absorber inside the main sheet body having a line for inducing bending. However, a line for inducing bending is well known in the art. Wierlacher confirms this and teaches an absorbent article having an absorber with a line for inducing bending (Figs. 1-9). Wierlacher teaches that this structure helps the pad conform to the wearer's anatomy (page 20). It would have been obvious to one of ordinary skill in the art to modify Glasgow to include the absorber having a line for inducing bending, as taught by Wierlacher, to conform to the wearer's anatomy.

21. For Claim 9, Glasgow does not teach the sub-sheet body including a protruded area which is protruded towards the body side. Wierlacher teaches the sub-sheet body including a protruded area, which is protruded towards the body side (Figs. 1-9). Wierlacher teaches that this configuration helps the pad conform to the wearer's anatomy (page 20). It would have been obvious to one of ordinary skill in the art to modify Glasgow to include the sub-sheet body including a protruded area which is protruded towards the body side, as taught by Wierlacher, to conform to the wearer's anatomy.

22. For Claim 10, Glasgow does not teach the sub-sheet body including a mini sheet piece for forming a finger insertion opening between the second back side sheet and

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the mini sheet piece on the garment side of the second back face side sheet of the sub-sheet body. Wierlacher teaches a mini sheet piece for forming a finger insertion opening between the second back side sheet and the mini sheet piece on the garment side of the second back face side sheet of the sub-sheet body (Figs. 1-9 and page 19). Wierlacher teaches that the mini sheet piece allows the user to hold the pad in an open hand without exerting any force, so that application to the body can be performed with a single movement (page 20, lines 1-20). It would have been obvious to one of ordinary skill in the art to modify Glasgow to include a mini sheet piece for forming a finger insertion opening, as taught by Wierlacher, to allow the user to hold the pad in an open hand without exerting any force so that application to the body can be performed with a single movement.

23. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Glasgow in view of U.S. Patent No. 5,910,137 to Clark et al.

24. For Claim 11, Glasgow teaches all the limitations of Claim 1, as described above in paragraph 7. Glasgow does not teach the interlabial pad being used together with a sanitary napkin. However, it is known in the art to use pads in combination. Clark teaches layering a series of absorbent pads on top of one another (Figs. 1-10 and col. 4, lines 22-32). Clark teaches that the layered pads may be of any geometry used in the feminine hygiene field (col. 4, lines 47-50). Clark teaches that layering the pads allows for removal of pads one by one as they become soiled (col. 12, lines 40-48). It would have been obvious to one of ordinary skill in the art to modify Glasgow to include

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a sanitary napkin, as taught by Clark, to allow for removal of pads as they become soiled.

25. Claims 14 and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Glasgow in view of U.S. Patent No. 6,131,736 to Farris et al.

26. For Claims 14 and 16, Glasgow teaches all the limitations of Claims 1 and 2, as described above in paragraphs 7 and 8. Glasgow does not teach a wrapping container for individually wrapping the interlabial pad, with the interlabial pad enclosed in the wrapping container. However, individual wrapping containers for interlabial pads are well known in the art. Farris confirms this and teaches an individual wrapping container for an interlabial pad (Figs. 1-7 and col. 1, lines 5-8). Farris teaches that the container allows for ready retrieval of the interlabial pad and allows for use of the pad without touching the pad itself (col. 3, line 66 to col. 4, line 4). It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Glasgow to include an individual wrapping container, as taught by Farris, to permit ready retrieval of the pad and use of the pad without touching the pad itself.

27. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Glasgow in view of Wierlacher and further in view of Farris.

28. For Claim 15, Glasgow/Wierlacher teach all the limitations of Claim 10, as described above in paragraph 22. Glasgow does not teach a wrapping container for individually wrapping the interlabial pad, with the interlabial pad enclosed in the

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wrapping container, nor the pad being orthogonal to the wrapping container. Farris teaches an individual wrapping container for an interlabial pad, as described above for Claims 14 and 16 in paragraph 26. Applicant's specification does not disclose that having the pad be orthogonal to the wrapping container serves any stated purpose or solves any particular problem. It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Glasgow to include an individual wrapping container, as taught by Farris, for the same reasons as described above for Claims 14 and 16 in paragraph 26, and to have the wrapping container take any configuration which encloses the pad.

Conclusion

29. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. U.S. Patent Nos. 6,315,766 to Drevik, 5,964,689 to McFall, 5,624,421 to Dabi et al., 5,169,394 to Jean, 5,087,254 to Davis, 4,595,392 to Johnson et al., and 4,425,130 to DesMarais show interlabial pads with sheet bodies bonded at both ends. U.S. Patent No. 5,507,735 to Van Iten et al. shows a protruded area in a sub-sheet body. U.S. Patent No. 6,500,160 to Mizutani et al shows a package which is orthogonal to the absorbent pad within. The remaining prior art references listed on the accompanying Form PTO-892 show the general state of the art.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paula L. Craig whose telephone number is (571)272-5964. The examiner can normally be reached on 8:30AM-5:00PM M-F.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571)272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Paula L Craig
Examiner
Art Unit 3761

PLC

TATYANA ZALUKAEVA
SUPERVISORY PRIMARY EXAMINER

A handwritten signature in black ink, appearing to read 'Tanya', written over the printed name of the supervisor.